

1 I'm a very faithful person, and I really  
 2 had to take all of this under  
 3 consideration.

4 Q. What research did you do the next day in  
 5 order to learn that Hartford was not  
 6 within Southworth Milton's district?

7 A. **I believe I called Harry Calderbank.**

8 Q. What did you say to him and what did he  
 9 say to you?

10 A. **I was -- at that point, I think I had  
 11 called Harry on concessions of the  
 12 multiple purchase of Caterpillar engines  
 13 versus the M11 Cummins. And Harry  
 14 informed me that -- and I'm not even  
 15 sure if this was before or after the  
 16 conversation with Kevin Holmes, but he  
 17 informed me that Hartford wasn't in his  
 18 district, that I would have to deal with  
 19 New Haven.**

20 Q. Did he tell you the company that you  
 21 would have to deal with if you bought  
 22 these trucks in Connecticut?

23 A. **Well, I know the Caterpillar dealer in  
 24 New Haven. I can't even think of the**

1 **warranty, the cost of warranty, the  
 2 discounting and, of course, who would  
 3 stand behind their warranty the best.**

4 Q. In the conversation with Mr. Calderbank  
 5 comparing the Cummins M11 and the C-12,  
 6 what did he tell you about relative  
 7 performance?

8 A. **He showed me comparison charts between  
 9 the two engines, economy charts. The --**

10 Q. I'm sorry. I interrupted you. Finish  
 11 your answer.

12 A. **I was primarily done. I wanted it to be  
 13 Caterpillar.**

14 Q. Did you keep those charts that he showed  
 15 you?

16 A. **No. No. Not that long.**

17 Q. What do you remember them showing that  
 18 was of interest to you?

19 A. **Torque curve, actual power, gross  
 20 horsepower, grade ability versus  
 21 economy. One of the big things that he  
 22 was selling was the cleanliness of the  
 23 Caterpillar versus the Cummins. I  
 24 believe he said the Cummins is the --**

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1 name.

2 Q. H.O. Penn?

3 A. **Yes. That is what it was.**

4 Q. Did Mr. Calderbank tell you that if you  
 5 purchased these trucks from the  
 6 Connecticut dealership that you would  
 7 have to deal with H.O. Penn in terms of  
 8 servicing for the engines?

9 A. **Yes. Or warranty for the engines or  
 10 concessions for the engines. Anything  
 11 about the engine, he couldn't help me.  
 12 He could fix them. He could fix  
 13 anybody's Caterpillar, but he couldn't  
 14 offer any assistance on the financial  
 arrangement.**

Q. You mentioned having talked with Mr.  
 Calderbank about concessions on  
 purchasing multiple engines relative to  
 the Cummins engine. Tell me about that  
 conversation. What did you say and what  
 did he say?

22 A. **I really don't recall the exact  
 23 conversation, but it was about  
 24 performance, about weight, about the**

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1 **M11 is the dirtiest engine on the  
 market.**

3 Q. Does that mean it has high emissions?

4 A. **I think, internally, soot. Soot in the  
 oil, if you do an oil analysis.**

6 Q. Anything else that you remember him  
 7 telling you about relative performance  
 8 of the Cummins engine and the C-12?

9 A. **He knew I wanted to be talked out of it.  
 10 So it really wasn't a heated  
 11 conversation of any kind. I wanted to  
 12 be talked out of it. I wanted him to  
 13 match what they were trying to sell me.**

14 Q. Have you given me your best memory of  
 15 the information that Mr. Cummins gave  
 16 you in the conversation that you had  
 17 with him comparing the M11 Cummins  
 18 engine to the C-12?

19 MS. REIMER: Objection  
 20 as to form.

21 A. **I didn't quite understand it.**

22 MS. REIMER: You got the  
 23 wrong name in there.

24 Q. Have you given me your best and most

1 complete memory of your conversation you  
 2 had with Mr. Calderbank comparing the  
 3 Cummins engine and the C-12 engine?  
 4 **A. Yes.**  
 5 **Q.** He also talked to you about relative  
 6 weights of the two engines?  
 7 **A. Yes.**  
 8 **Q.** C-12 was lighter?  
 9 **A. No.**  
 10 **Q.** C-12 was heavier?  
 11 **A. He said they were the same. There was**  
 12 **about 60 pounds difference.**  
 13 **Q.** What did he tell you about relative  
 14 warranties?  
 15 **A. They were the same.**  
 16 **Q.** Did he describe the warranties other  
 17 than just telling you that they were the  
 18 same?  
 19 **A. I believe he called it a serious**  
 20 **nucleus, and he gave us literature**  
 21 **showing everything that it covered.**  
 22 **Q.** Was so-called serious nucleus coverage  
 23 something that you had on other  
 24 Caterpillar engines that you already

1 you if that is the serious nucleus  
 2 coverage that you understood Mr.  
 3 Calderbank to be talking about. It's a  
 4 two-sided document.  
 5 **A. All I really remember is I did see a**  
 6 **list of numbers on a page, and this**  
 7 **would have been explained to me, and**  
 8 **then Andy would have -- he is my**  
 9 **technical guy -- he would have taken it**  
 10 **from there.**  
 11 **Q.** Andy Lind?  
 12 **A. Yes.**  
 13 **Q.** The document that I have shown you that  
 14 says on the front of it On Highway  
 15 Vehicle Engine Extended Service  
 16 Coverage, is that a form of document  
 17 that Mr. Calderbank showed you in  
 18 connection with these conversations he  
 19 was having with you concerning --  
 20 **A. He never showed me a document.**  
 21 **Q.** You had seen a document of this type  
 22 before in connection with your other  
 23 Caterpillar engines, correct?  
 24 **A. I don't remember ever seeing it. I**

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1 owned?  
 2 **A. Everything, yes.**  
 3 **Q.** Technically speaking, it was an extended  
 4 service contract that you purchased,  
 5 correct?  
 6 **A. Yes.**  
 7 **Q.** When I say that you purchased, either  
 8 you purchased it by paying money or you  
 9 got it as part of the overall  
 10 transaction whereby you purchased the  
 11 truck with the Caterpillar engine in it?  
 12 **A. Yes. Had a figure -- had a cost figure**  
 13 **on it. If you didn't want it and wanted**  
 14 **the money, I don't think they would give**  
 15 **it to you. No. It did have a cost**  
 16 **figure. It had a value.**  
 17 **Q.** Let me just show you a document. What I  
 18 have got is a package of documents  
 19 contained with a letter from your  
 20 attorneys. I'm just going to hand it to  
 21 you in that form. But I will ask you to  
 22 look at the third page of the document,  
 23 third page, including the first page,  
 24 which is your attorney's letter, and ask

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1 **possibly could have, but I don't recall**  
 2 **it.**  
 3 **Q.** In the conversation that you had with  
 4 Mr. Calderbank concerning the warranty,  
 5 relative warranties as to the Cummins  
 6 engine or the C-12 engine, although he  
 7 didn't show you the document, did he  
 8 tell you what the coverage would be?  
 9 **A. Yes, he did.**  
 10 **Q.** What did he say?  
 11 **A. He said it would be a 500,000 mile**  
 12 **extended warranty.**  
 13 **Q.** Did he tell you anything else?  
 14 **A. He told me what it would cover and what**  
 15 **it wouldn't cover.**  
 16 **Q.** What did he tell you on that subject?  
 17 **A. All the heavy parts after a certain**  
 18 **time. I don't believe it would cover --**  
 19 **on the extended it wouldn't cover a**  
 20 **turbocharger or injector or an ECM or**  
 21 **something like that, but as far as the**  
 22 **internal combustion parts, pistons,**  
 23 **valves, crankshaft, timing gears,**  
 24 **totally everything.**

1 specifications for these trucks?  
 2 A. I had run across them not too long ago.  
 3 I don't believe that we have -- we still  
 4 have them.  
 5 Q. When did you last see them?  
 6 A. It could have been a couple of years  
 7 ago. I really don't recall.  
 8 Q. Where were they when you saw them?  
 9 A. I don't know if they were in my  
 10 briefcase. I continually throw things  
 11 away. Old things get thrown away.  
 12 Whether it's my briefcase or my desk or  
 13 what have you, things I don't have to  
 14 keep, I don't keep.  
 15 Q. During the process whereby Mr. Medbery  
 16 sent you these line sheets and corrected  
 17 line sheets and you then spoke with him  
 18 about changes to them, during the period  
 19 that that process was going on, did you  
 20 have any communications with Mr.  
 21 Calderbank or anyone else employed by  
 22 Southworth-Milton or Caterpillar  
 23 concerning the engines that were to be  
 24 in these trucks?

1 these trucks?  
 2 A. Retail.  
 3 Q. What do you mean by that?  
 4 A. A truck with, they call it, a big bore  
 5 engine has a higher resale than a  
 6 smaller engine.  
 7 Q. Other than resale value, was there  
 8 anything about the performance  
 9 characteristics or the quality or the  
 10 accessories or the equipment on a 3406E  
 11 that caused you to be interested in that  
 12 as a possible alternative to a C-12 for  
 13 these trucks?  
 14 A. No.  
 15 Q. Was it you who raised the subject with  
 16 Mr. Calderbank about possibly having the  
 17 trucks equipped with a 3406E, or did Mr.  
 18 Calderbank raise that possibility?  
 19 A. I did.  
 20 Q. Had Mr. Medbery, or anyone from  
 21 Minuteman, suggested the possibility of  
 22 a 3406E?  
 23 A. No.  
 24 Q. So you raised, during this period of

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 1 A. Yes.  
 2 Q. Who did you have those conversations or  
 3 communications with?  
 4 A. Primarily Harry Calderbank.  
 5 Q. Anybody other than Harry Calderbank?  
 6 A. I'm sure I had spoken to Al Cardoza, but  
 7 I don't really recall a specific  
 8 conversation.  
 9 Q. During the period where you are going  
 10 back and forth with Mr. Medbery about  
 11 these line sheets, what were the  
 12 communications you had with Mr.  
 13 Calderbank concerning the engines that  
 14 you wanted to be in these trucks that  
 15 you were discussing?  
 16 A. We discussed other Caterpillar engines  
 17 also and the weight factor between at  
 18 that time a 3406E. It was 600 pounds  
 19 and it was just too heavy, so we  
 20 reverted back to the C-12, and it had  
 21 been working out, so we decided on that,  
 22 and then he told me about the  
 23 discounting.  
 24 Q. Why were you considering a 3406E for

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 1 time, with Mr. Calderbank about a 3406E,  
 2 and you and he discussed the weight  
 3 penalty that that would entail?  
 4 A. Yes.  
 5 Q. The weight penalty was more than you  
 6 wanted to pay basically, correct?  
 7 A. Yes.  
 8 Q. You also said that during this period of  
 9 time you discussed discounting with Mr.  
 10 Calderbank. What discussion was had on  
 11 the subject of discounting?  
 12 A. Basically, how bad do you want my  
 13 business?  
 14 Q. What did you say to him and what did he  
 15 say to you?  
 16 A. I believe he had given us or offered us  
 17 an extra \$500 discount off of each  
 18 engine over and above what the dealer  
 19 could get from Sterling itself on an OEM  
 20 basis and free of charge extended  
 21 500,000 mile warranty.  
 22 Q. So is that what you and he discussed in  
 23 terms of discounting?  
 24 A. What we had to do was match the M11

1 correct?

2 **A. Changing oil, servicing is all that**  
3 **won't be on here.**

4 **Q. Is changing oil the only routine**  
5 **servicing and maintenance work that was**  
6 **done on these engines?**

7 **A. That really is hard to say.**

8 **Q. Take a minute and look through Exhibits**  
9 **11 through 30 and tell me whether any of**  
10 **those packages contain records of**  
11 **routine repair, servicing or maintenance**  
12 **work done on the engines in the trucks**  
13 **to which those exhibits pertain?**

14 **A. To be crystal clear, repeat the exact**  
15 **question you want answered.**

16 **Q. What I want to know is whether any of**  
17 **Exhibits 9 through 30 contain any**  
18 **records of routine servicing or**  
19 **maintenance work that was performed on**  
20 **Caterpillar C-12 engines in the**  
21 **Trans-Spec trucks to which these**  
22 **exhibits pertain?**

23 **A. No.**

24 **Q. So if Caterpillar or anyone else wanted**

1 to know what routine servicing and

2 maintenance work was done on those

3 engines, it would not be able to learn

4 that information from the documents

5 contained in Exhibits 9 through 30?

6 **A. Correct.**

7 **Q. When you asked Mr. Barton and Mr.**  
8 **LaFlash to assemble records relating to**  
9 **the engines, did you ask them to**  
10 **assemble records of that type, that is**  
11 **to say records concerning routine**  
12 **servicing and maintenance work on the**  
13 **engines?**

14 **A. No.**

15 **Q. Exactly what documents did you ask Mr.**  
16 **Barton and Mr. LaFlash to assemble?**

17 **A. The information on the flywheel housing**  
18 **failures.**

19 **Q. Did you ask them to assemble information**  
20 **about failures of any type other than**  
21 **flywheel housing failures?**

22 **A. Any major type of Caterpillar warranty**  
23 **work.**

24 **Q. Did you ask them to assemble any type --**

1 any documents relating to engine

2 failures that they did not consider to

3 be a Caterpillar warrantable item?

4 **A. We didn't have any.**

5 **Q. Did you limit what they were to look for**  
6 **to documents that they deemed to be**  
7 **Caterpillar warrantable failures?**

8 **A. Yes.**

9 **Q. If there were failures that Mr. Barton**  
10 **or Mr. LaFlash did not consider to be**  
11 **warrantable by Caterpillar, they would**  
12 **not have included those documents in**  
13 **what they assembled; is that accurate?**

14 **A. Yes.**

15 **Q. To your knowledge, has any effort been**  
16 **made to assemble all of Trans-Spec's**  
17 **documents relating to the engines in the**  
18 **22 Sterling trucks involved in this**  
19 **case?**

20 **A. I believe your people were there.**

21 **Q. Other than what people from my office**  
22 **had been trying to do, has anyone acting**  
23 **on behalf of Trans-Spec tried to do**  
24 **that?**

	225		227
1	Q. During the year 2004, did Minuteman do any work, non-engine work, on these trucks?	1	A. <b>Milton CAT and the Tri-State Freightliner.</b>
2		2	Trans-Spec hasn't done any?
3		3	
4	A. No.	4	A. No.
5	Q. Did Trans-Spec do non-engine work on the trucks?	5	Q. Up until the time when you learned from
6		6	Minuteman that Caterpillar had told that
7	A. Yes.	7	it would not pay for engine work that
8	Q. Why did Trans-Spec stop using Minuteman for non-engine work on these trucks in	8	you would take the truck or sent the
9		9	truck to Minuteman for, had you had any
10	2004?	10	discussions with anyone from Southworth
11	A. <b>Trucks were out of warranty.</b>	11	or anyone from Caterpillar concerning
12	Q. Any other reason?	12	engine problems that you were having
13	A. Not really.	13	with the Sterling trucks?
14	Q. Had you been satisfied with the service that Trans-Spec had received from	14	A. Yes.
15	Minuteman Truck with respect to work on	15	Q. When did you first have a discussion on
16	these trucks or these engines?	16	that subject with someone from
17		17	Southworth or from Caterpillar?
18	A. Yes.	18	A. <b>We consistently had discussions with Harry Calderbank and Al Cardoza.</b>
19	Q. You would have no complaints for that work?	19	
20		20	Q. When did you have the first such
21	A. <b>I have complaints with everything.</b>	21	discussion with one of those two
22	Q. You had no complaints about Minuteman's work more than you have complaints about	22	gentlemen?
23		23	A. <b>When things started getting more non-coincidental.</b>
24	any other dealership's work?	24	
	226		228
1	A. <b>That's a true statement.</b>	1	Q. Can you bracket when that was?
2	Q. In the year 2004, other than Trans-Spec	2	A. <b>It's pretty tough to say. As long as</b>
3	itself, who performed non-engine work on	3	<b>they were accepting responsibility in</b>
4	these trucks?	4	<b>repairing them, I really didn't complain</b>
5	A. <b>Just Trans-Spec.</b>	5	<b>much. The frequency was, you know, kind</b>
6	Q. So all of the non-engine work in 2004	6	<b>of tough.</b>
7	was done by Trans-Spec?	7	And trying to get a
8	A. Correct.	8	truck fixed in a reasonable amount of
9	Q. And is that true for 2005 as well?	9	time was sometimes a problem where I
10	A. Yes.	10	would call Harry and say, Okay, Harry,
11	Q. In 2004, who did the engine work on the	11	where do we go? And he would try to
12	engines in the Sterling trucks?	12	find us a place to get the truck fixed
13	A. <b>Milton CAT or Tri-State Freightliner.</b>	13	in short order. That was his job.
14	Q. Did Trans-Spec do any engine work in	14	But when all of a sudden
15	2004 on these trucks?	15	we have two trucks down, three trucks
16	A. <b>In the very beginning, I believe we did.</b>	16	down, four trucks down, I believe that
17	Q. What kind of engine work?	17	was by 2000 -- late 2002, mid 2002, just
18	A. <b>Whatever we had to.</b>	18	an estimate, but now it was a concern,
19	Q. Do you remember what that was?	19	and that's when they denied a claim and
20	A. <b>Flywheel housings.</b>	20	we were in trouble.
21	Q. Anything else?	21	Q. Let me ask you this. You mentioned
22	A. <b>I don't recall anything else.</b>	22	dispatchers. Do the dispatchers at
23	Q. Then in 2005, who has done engine work	23	Trans-Spec, in order to do their job,
24	on these trucks?	24	have some type of document in front of

1 them that lists out all of the trucks  
 2 that they are going to be -- all the  
 3 trucks that might be dispatched for work  
 4 on a particular day?

5 **A. Yes.**

6 **Q.** And do those forms that the dispatchers  
 7 use identify Trans-Spec trucks that are  
 8 out of service on that day?

9 **A. What a coincidence. Yes.**

10 **Q.** So if I wanted to know specific days  
 11 when particular trucks were out of  
 12 service, I could learn that by looking  
 13 at those dispatcher forms, if they are  
 14 still in existence, correct?

15 **A. Yes.**

16 **Q.** And has Trans-Spec kept those dispatcher  
 17 forms for the last several years?

18 **A. Yes.**

19 **Q.** Where are they located?

20 **A. 22 Eskow Road.**

21 **Q.** Are they located in the storage trailer  
 22 there, or are they located somewhere  
 23 else?

24 **A. No. They are on the dispatch system.**

230

1 **Q.** So they are actually electronically  
 2 stored?

3 **A. Yes.**

4 **Q.** How far back do those records exist?

5 **A. 1996.**

6 **Q.** So for each day between the day in early  
 7 2000 when these trucks went into service  
 8 up until today, there would be a  
 9 dispatcher form that would tell us which  
 10 of the trucks was in service or out of  
 11 service on that day, correct?

12 **A. Yes. That's correct.**

13 **Q.** What would be involved in printing out  
 14 those forms?

15 **A. Not much.**

16 **Q.** It would be an easy thing to do?

17 **A. Yes.**

18 **Q.** As you sit here today, you probably  
 19 can't tell me the specific days when  
 20 each of these 22 Sterling trucks were  
 21 out of service, can you?

22 **A. No. I can't.**

23 **Q.** Would the best way of getting that  
 24 information be by looking at those

1 dispatcher forms?

2 **A. Or just have them print it out.**

3 **Q.** Well, whether you are looking at them on  
 4 the screen or getting them printed out,  
 5 that would be the easiest and most  
 6 effective way to know exactly when those  
 7 trucks were out of service, correct?

8 **A. Absolutely.**

9 **Q.** Those forms wouldn't tell you why they  
 10 were out of service, but they would tell  
 11 you whether they were out of service or  
 12 not, right?

13 **A. Yes.**

14 **Q.** I understand that in June of 2004, you  
 15 attended a meeting at Southworth  
 16 Milton's place of business in Milford,  
 17 Massachusetts that was attended by  
 18 yourself and maybe some other people  
 19 from Trans-Spec and some people from  
 20 Caterpillar and some people from  
 21 Southworth. Do you remember that  
 22 meeting?

23 **A. Yes, I do.**

24 **Q.** Was that the first meeting that you had

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1 related to these trucks and engines with  
 2 people who were actually Caterpillar  
 3 employees as distinct from  
 4 Southworth-Milton employees?

5 MS. REIMER: Objection.

6 **A. Yes.**

7 **Q.** Before that meeting, had you had any  
 8 conversation with people who were  
 9 actually Caterpillar employees as  
 10 distinct from Southworth-Milton  
 11 employees about these trucks or engines?

12 **A. I really never knew the difference.**

13 **Q.** Before that meeting, you had had  
 14 conversations about these trucks and  
 15 engines with Mr. Calderbank and Mr.  
 16 Cardoza, right?

17 **A. Amongst others, yes.**

18 **Q.** Who are the others?

19 **A. There was a fellow in a wheelchair.**

20 **Q.** What was that fellow's name?

21 **A. I really don't recall.**

22 **Q.** Where did you have a conversation with  
 23 him?

24 **A. I seen him a few different -- once in**

1       **Milton. Once on my property. There was**  
 2       **a fellow named Gary Blood.**  
 3   **Q.** You mentioned him earlier?  
 4   **A.** Right.  
 5   **Q.** Anybody else?  
 6   **A.** **There was -- there were plenty of**  
 7       **others, but one time here and one time**  
 8       **there and...**  
 9   **Q.** Can you name any of them?  
 10   **A.** **I really -- I'm not the greatest on**  
 11       **names.**  
 12   **Q.** Now, returning to this meeting in June  
 13       2005, you attended it and who else from  
 14       Trans-Spec attended it?  
 15   **A.** **Robert Barton.**  
 16   **Q.** Anybody else?  
 17   **A.** **From Trans-Spec, no.**  
 18   **Q.** Who else was present at that meeting?  
 19   **A.** **Troy. I really can't recall his last**  
 20       **name. He was from Caterpillar.**  
 21   **Q.** Guidotti, or something like that?  
 22   **A.** **Something like that.**  
 23   **Q.** I am not sure I am pronouncing it right.  
 24       But his first name was Troy and he was

1       **Mr. Guidotti and Al Cardoza and someone**  
 2       **else who you can't --**  
 3   **A.** **Bill Wicher.**  
 4   **Q.** -- you can't recall from SMI, Mr. Bumpus  
 5       and Bob from Sterling and also Mr.  
 6       Wicher?  
 7   **A.** **Yes.**  
 8   **Q.** Bill Wicher?  
 9   **A.** **Bill Wicher from Minuteman Trucks.**  
 10   **Q.** Anybody else there?  
 11   **A.** **I believe that was it.**  
 12   **Q.** Did anyone participate by telephone?  
 13   **A.** **No.**  
 14   **Q.** Do you remember what time of the day the  
 15       meeting was?  
 16   **A.** **I really don't. I'm picturing**  
 17       **mid-morning.**  
 18   **Q.** Do you remember how long the meeting  
 19       lasted?  
 20   **A.** **An hour, hour and a half.**  
 21   **Q.** Did you make any notes during the  
 22       meeting?  
 23   **A.** **No. I have -- Bob did.**  
 24   **Q.** Mr. Barton made notes?

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1       from Caterpillar?  
 2   **A.** **Yes.**  
 3   **Q.** Did he give you a card?  
 4   **A.** **He did.**  
 5   **Q.** It said Caterpillar on it?  
 6   **A.** **Oh, yeah.**  
 7   **Q.** Who else was at the meeting?  
 8   **A.** **Al Cardoza from Southworth. There was**  
 9       **somebody else there from Southworth.**  
 10       **There was Mike Bumpus.**  
 11   **Q.** Who is Mike Bumpus?  
 12   **A.** **He is the district rep for Sterling.**  
 13   **Q.** Who else was there?  
 14   **A.** **I believe he is with Sterling, yes.**  
 15       **Then there was another rep from**  
 16       **Sterling.**  
 17   **Q.** You don't remember his name?  
 18   **A.** **I will think of his name. Something**  
 19       **like Bob White or Bob.**  
 20   **Q.** Bob, someone from Sterling?  
 21   **A.** **Yes. I have been dealing with him**  
 22       **forever because he was with Freightliner**  
 23       **prior to being with Sterling.**  
 24   **Q.** Other than yourself and Mr. Barton and

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1   **A.** **Yes.**  
 2   **Q.** Are those notes still in existence?  
 3   **A.** **I believe, yes.**  
 4   **Q.** Are they handwritten notes?  
 5   **A.** **With Bob I'm sure he put them in type.**  
 6       **He is pretty good.**  
 7   **Q.** Are these notes that were made at the  
 8       meeting itself?  
 9   **A.** **Yes.**  
 10   **Q.** So these aren't documents that were  
 11       prepared in anticipation of the meeting?  
 12   **A.** **No.**  
 13   **Q.** Did you take to that meeting any  
 14       documents to use at the meeting?  
 15   **A.** **Yes.**  
 16   **Q.** Were those documents that have now been  
 17       marked Exhibits 9 through 30?  
 18   **A.** **I believe so.**  
 19   **Q.** They were in some sort of notebook at  
 20       that time, right?  
 21   **A.** **Yes.**  
 22   **Q.** Did you take any additional documents to  
 23       that meeting?  
 24   **A.** **I don't believe I did. I think that's**

1 what we had.

2 Q. Did anyone at that meeting supply you or  
3 Mr. Barton with any documents during the  
4 course of the meeting?

5 A. When a question was asked, the fellow  
6 that had all the information was Al  
7 Cardoza. He had every history from  
8 every truck I had ever owned right back  
9 from day one.

10 Q. He had a large volume of documents with  
11 him?

12 A. I think he -- I don't know if he had it  
13 on his Palm Pilot. I really don't know.  
14 But he opened up a book, and any  
15 question that was asked he read off on  
16 this date and this date, this was done,  
17 and so on.

18 Q. Did Mr. Cardoza supply you or Mr. Barton  
19 with any of the documents that he was  
20 looking at?

21 A. No.

22 Q. When you left that meeting with Mr.  
23 Barton, did you take any documents away  
24 with you?

1 was to make this go away, and we just  
2 didn't want to hurt anybody. We just  
3 wanted our trucks fixed, be reimbursed  
4 for what we had spent and basically get  
5 a wholesale price on a truck and an  
6 engine, or we discussed it anyway.

7 We got out of it they  
8 are going to fix the trucks. And Troy  
9 basically confirmed what we were being  
10 told by the Milton employees that,  
11 historically, Caterpillar will make this  
12 up to us. And the term that Troy used,  
13 for the first time I heard at that  
14 meeting, was that Caterpillar will make  
15 you whole.

16 So we left feeling very  
17 confident that we felt great. This  
18 thing is going to go away, and we are  
19 going to be back where we once were with  
20 Caterpillar by our side and we would be  
21 happy again.

22 Q. Did you ask Mr. Guidotti what he meant  
23 when he said Caterpillar will make you  
24 whole?

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1 A. No. Just our own book.

2 Q. Give me your best memory of what  
3 happened at that meeting and who said  
4 what to whom?

5 A. Ed Blake is the other guy from Sterling.  
6 I always do that.

7 Q. His first name wasn't Bob, it was Ed?

8 A. No, it was Ed. Close, though. It only  
9 has a couple of letters in it.

10 Q. Tell me what happened in the meeting and  
11 who said what to whom?

12 A. Everyone was pretty cordial. They  
13 wanted to take care of our problems, and  
14 I believe they did. And Troy said, We  
15 are going to start fixing the trucks or  
16 we are going to see about fixing the  
17 trucks. That's what he said.

18 At the time, we wanted  
19 to get new trucks, so we were talking  
20 about can Caterpillar help us out. If  
21 we traded these trucks, if we sold these  
22 trucks outright, could we get a discount  
23 on new engines? Sterling was there.  
24 Could we get -- what we were looking for

1 A. No.

2 Q. Did he explain what he meant by that?

3 A. Financially whole is what we were  
4 looking for, and we believed and so did  
5 the Sterling employees believed that's  
6 what he meant, also.

7 Q. Tell me exactly what Mr. Guidotti said  
8 in the part of this conversation where  
9 he used that phrase.

10 A. There were a lot of things said. That  
11 is the one thing that stuck in my mind,  
12 of course, because that was the most  
13 important statement made in the whole  
14 meeting.

15 Q. Other than those words, do you remember  
16 the context, the sentence, the  
17 discussion that those words were stated  
18 in?

19 A. That meeting wasn't as important as the  
20 next meeting.

21 Q. I'm not interested in talking right now  
22 about the next meeting. I'm trying to  
23 understand what was actually said at the  
24 June meeting. You reported some words.

1 the proposal of Sterling to help us  
 2 market the trucks we have. They have  
 3 access to, you know, probably a thousand  
 4 truck lots owned by Freightliner which  
 5 are -- they have a name for them.  
 6 Select. Select Truck Centers are owned  
 7 by Freightliner -- and maybe spread them  
 8 out across the country, two here, two  
 9 there and what have you, and sell us  
 10 Caterpillar engines at a really good  
 11 price and sell us a Sterling truck at a  
 12 really good price. And we needed them  
 13 by a certain time so that we could meet  
 14 our contracts the following winter.

15 Q. What did Mr. Bumpus and Mr. Blake  
 16 respond to all of that?

17 A. **They couldn't get engines.**

18 Q. What do you mean they couldn't get  
 19 engines?

20 A. **They were willing. They couldn't get  
 21 engines. Caterpillar wouldn't bend one  
 22 inch. They told us we could have  
 23 Caterpillar engines by like February or  
 24 something like that. They were all**

1 **would be correct.**

2 Q. The first meeting was there any  
 3 discussion specifically of the terms of  
 4 the extended service contract that you  
 5 had obtained way back when Trans-Spec  
 6 took delivery of these trucks?

7 A. **No.**

8 Q. Was there any discussion of what that  
 9 covered and what it didn't cover?

10 A. **No.**

11 Q. So that you just didn't talk about that  
 12 document at the meeting, correct?

13 A. **Correct.**

14 Q. You didn't talk about the Caterpillar  
 15 limited warranties with respect to these  
 16 engines, correct?

17 A. **It wasn't that kind of a meeting.**

18 Q. Then there was a second meeting, and  
 19 that occurred in August 2004?

20 A. **That sounds good.**

21 Q. Is it your memory that it was in August?

22 A. **My memory is it was either July or  
 23 August.**

24 Q. That meeting also was at

1 **booked up.**

2 Q. What about trucks with different kinds  
 3 of engines other than Caterpillar  
 4 engines, could they get those?

5 A. **Could they have gotten those?**

6 Q. Did you discuss with them getting those?

7 A. **No. Not really.**

8 Q. Why not?

9 A. **It wouldn't help my problem.**

10 Q. What else was discussed at that meeting?

11 A. **You know, we had two meetings, and I'm  
 12 confusing some things possibly being  
 13 said at the second meeting. They are  
 14 real close together. The same people  
 15 were there except I don't think Bumpus  
 16 and Ed Blake were at the second one, but  
 17 Steve Schoening was.**

18 Q. I'm trying to --

19 A. **What I'm getting at is the events,  
 20 there's a little bit in each meeting and  
 21 I really -- I possibly could be getting  
 22 some confused between the two, and I'm  
 23 not sure if I am or not. They were  
 24 almost combined meetings, so my answers**

1 Southworth-Milton in Milford?

2 A. **I believe it was.**

3 Q. Was Mr. Guidotti there?

4 A. **We were in a smaller office. I still  
 5 believe it was there, though. Yes, he  
 6 was there.**

7 Q. Mr. Schoening was there?

8 A. **Yes.**

9 Q. That is S-C-H-O-E-N-I-N-G.

10 Did Mr. Schoening give  
 11 you a card?

12 A. **Yes.**

13 Q. Had you met Mr. Schoening before?

14 A. **I'm not sure.**

15 Q. Had you spoken with Mr. Schoening  
 16 before?

17 A. **No. I don't believe so.**

18 Q. Al Cardoza was there, right?

19 A. **Yes.**

20 Q. And you and Mr. Barton?

21 A. **Yes.**

22 Q. Other than Cardoza, was anyone else from  
 23 Southworth-Milton there?

24 A. **I don't believe so.**